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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/629,022

07/31/2000

Douglas D. Do

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03/10/2005

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

EXAMINER

FERNANDEZ, KALIMAH

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/629,022

Applicant(s)

DO ET AL.

Examiner

Kalimah Fernandez

Art Unit

2881

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 12-14 and 16-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

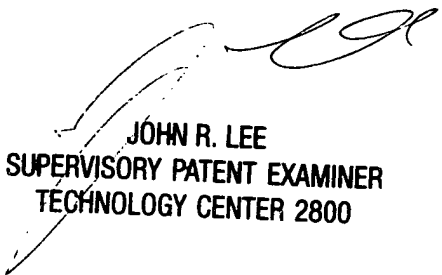
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendment broadens the claim scope. The proposed claim language would require further consideration; thus, the amendment will not be entered..

Continuation of 11. : Presently, applicant argues two points: 1) there is no motivation to combine Muraki and Ichihashi et al and 2) Kurosaki does not teach the beam passes through a lens first, then a port surface, and after passing through the port surface passing through another lens. Each argument will be addressed in turn. Firstly, prima facie obviousness is established where a combined reference teaches the desirability of the claimed invention (See MPEP 2143). References are evaluated by what the combination makes obvious to an ordinary artisan In re McLaughlin, 170 USPQ 209 (CCPA 1971). Here, Muraki et al teach detecting wafer shrinkage/expansion via alignment detection unit (see col.12, lines 40-53) and Ichihashi et al teach the desirability of additional detector for reducing alignment errors. The linchpin of applicant's argument is a conclusory assumption that "In electron beam lithography, electrons are predominately adsorbed by the resist on the substrate and any features in the resist are formed after developing the resist after exposure, which normally occurs outside the ... lithography system." The state of art or a proper understanding of electron beam irradiation does not support this contention. Contrarily, it can be easily verified that direct lithography produce backscattered electrons during exposure and it is conventional in the art to employ a secondary electron detector to detect backscattered electrons. Therefore, the combination of Muraki and Ichihashi taken as a whole would suggest the claimed invention. Lastly, applicant argues Kurosaki fails to teach the above-mentioned feature. MPEP 2111 requires all claims be given their broadest reasonable interpretation. Here, the claim language "port surface" covers any port or (aperture-like) structure. Kurosaki teaches (49) and (50), which reads on a port surface. If applicant intends a more restrictive interpretation, the limitation must explicitly define the term.



JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800